



## Regulation Development Update

March 23, 2018

DHEC produces this Regulation Development Update within one business day of publication of the South Carolina State Register (the fourth Friday of each month).

The Update reports DHEC's regulation development activity, including proposed new regulations, amendments, and repeals of existing regulations, currently pending. Each entry presents a synopsis, status, and (upon assignment by the S.C. Legislative Council) a searchable S.C. State Register Document Number. Legislative Council assigns a Document Number at the Notice of Proposed Regulation stage of the regulation [promulgation process](#). The Document Number subsequently remains with the particular regulation development activity throughout the process.

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While DHEC has made every effort to maintain the accuracy of content presented in this Regulation Development Update, it reserves the right to correct errors when discovered.

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# NO PENDING REGULATION DEVELOPMENT ACTIVITY FOR:

The following program areas have no pending regulation development activities at this time.

## **Chief Financial Officer**

Budgets and Financial Management

## **General Counsel**

## **Environmental Affairs**

Environmental Affairs Administration

Environmental Health Services

Land and Waste Management

Water

## **Health Regulation**

Certificate of Need

Drug Control

## **Public Health**

Disease Control

Maternal and Child Health

Public Health Preparedness

Public Health Statistics and Information Services

There are no DHEC Emergency Regulations in effect at this time.

# PENDING REGULATION DEVELOPMENT ACTIVITY FOR:

The following program areas have pending regulation development activities at this time.

## ENVIRONMENTAL AFFAIRS

### AIR QUALITY – Proposed Amendments

#### **R.61-62, Air Pollution Control Regulations and Standards**

State Register Document TBD

##### **Summary:**

- (1) The Department proposes amending Regulation 61-62.1, Definitions and General Requirements, Section II, Permit Requirements, to expand and improve consistency in language regarding general and registration permits.
- (2) The Department proposes amending the introductory paragraph to Regulation 61-62.5, Standard No. 2, Ambient Air Quality Standards, to remove the sentence describing the test method for Gaseous Fluorides to improve the accuracy and clarity of the regulation's text.
- (3) The Department proposes amending Regulation 61-62.5, Standard No. 5.2, Control of Oxides of Nitrogen (NO<sub>x</sub>), to update applicability and exemptions, as well as to propose corrections for internal consistency, punctuation, codification, and spelling.
- (4) The Department proposes amending Regulation 61-62.5, Standard No. 7, Prevention of Significant Deterioration, to update applicability and exemptions, as well as to propose corrections for internal consistency, punctuation, codification, and spelling.
- (5) The Department proposes amending Regulation 61-62.5, Standard No. 7.1, Nonattainment New Source Review (NSR), to improve the overall clarity and structure of the regulation, as well as to propose corrections for internal consistency, punctuation, codification, and spelling.
- (6) The Department proposes amending Regulation 61-62.70, Title V Operating Permit Program; Regulation 61-62.1, Definitions and General Requirements; Regulation 61-62.5, Standard No. 7, Prevention of Significant Deterioration; and Regulation 61-62.5, Standard No. 7.1, Nonattainment New Source Review (NSR), to update public participation procedures.

The Department may also propose other changes to Regulation 61-62, Air Pollution Control Regulations and Standards, that may include definitional updates, clarification of certain permitting provisions, and other changes or additions as deemed necessary, as well as corrections for internal consistency, clarification, reference, punctuation, codification, formatting, and spelling to improve the overall text of Regulation 61-62 as necessary.

### **History and Status:**

Notice of Drafting published:

October 27, 2017

Drafting comment period closed:

November 27, 2017

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## **AIR QUALITY – Proposed Amendments**

### **R.61-62, Air Pollution Control Regulations and Standards**

State Register Document TBD

#### **Summary:**

The United States Environmental Protection Agency (“EPA”) promulgates amendments to the Code of Federal Regulations throughout each calendar year. Recent federal amendments to 40 CFR Parts 60, 61, and 63 include technical amendments regarding New Source Performance Standards, National Emission Standards for Hazardous Air Pollutants (NESHAP), and National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories.

The Department proposes amending: R.61-62.60, South Carolina Designated Facility Plan and New Source Performance Standards; R.61-62.61, National Emission Standards for Hazardous Air Pollutants; and R. 61-62.63, National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories, to incorporate by reference recent federal amendments promulgated from January 1, 2017, through December 31, 2017. The Department also proposes changes to R. 61-62.68, Chemical Accident Prevention Provisions, to include corrections for internal consistency, clarification, chemical nomenclature, codification, and spelling to improve the overall text as necessary. Additionally, the Department proposes striking paragraph (a)(6) of Section 70.3, Applicability, in R.61-62.70, Title V Operating Permit Program, to maintain state compliance with federal regulations.

The Department also proposes the repeal of R.61-62.96, the Nitrogen Oxides (NO<sub>x</sub>) and Sulfur Dioxide (SO<sub>2</sub>) Budget Trading Program, in its entirety. The Department adopted R.61-62.97, the

Cross-State Air Pollution Rule (CSAPR) Trading Program, on August 25, 2017. R.61-62.96 is based on the federal Clean Air Interstate Rule ("CAIR"), which EPA has since replaced with federal CSAPR requirements implemented by R.61-62.97. As a result, federal CAIR requirements implemented by R.61-62.96 are no longer in effect.

The Department may also propose federal law related changes to Regulation 61-62, Air Pollution Control Regulations and Standards, to include corrections for internal consistency, clarification, reference, punctuation, codification, formatting, and spelling to improve the overall text of Regulation 61-62 as necessary.

In accordance with 1976 Code Section 1-23-120(H), legislative review is not required because the Department proposes promulgating the amendments to maintain compliance with federal law.

**History and Status:**

Notice of Drafting published:

March 23, 2018

Drafting comment period closed:

April 23, 2018

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# **OCEAN AND COASTAL RESOURCE MANAGEMENT – Proposed Amendment**

## **R.30-14, Administrative Procedures (Coastal Division)**

State Register Document 4810

### **Summary:**

The Department of Health and Environmental Control (“Department”) proposes amending R.30-14, Administrative Procedures with respect to the review process for revising jurisdictional lines and erosion rates affecting beachfront properties. 1976 Code Section 48-39-280 requires the Department to establish and review the position of beachfront jurisdictional setback lines, baselines, and erosion rates once every seven (7) to ten (10) years. Existing Coastal Division Regulation 30-14.F provides that a landowner may request a review of the jurisdictional lines or erosion rate affecting his or her property within one (1) year of adoption. However, statutory changes under Act No. 387 of 2006 limit the review of a Department decision to fifteen (15) calendar days. This proposed regulatory amendment would clarify the review process to allow sufficient time for affected landowners to understand the Department’s methodology in setting jurisdictional lines and erosion rates, and bring any substantiating evidence to the attention of the Department’s Office of Ocean and Coastal Resource Management for staff determination. The amendment would provide landowners a timely review and would comply with Act No. 387 of 2006.

The Department published proposed revisions to the state’s beachfront jurisdictional setback lines, baselines and erosion rates on October 6, 2017. Based on comments received from landowners, community leaders, the conservation community and others during the initial 30-day public comment period, the Department extended the public comment period until April 6, 2018. Existing jurisdictional lines will remain in place until final revised lines are adopted.

The Administrative Procedures Act, S.C. Code Section 1-23-120(A), requires General Assembly review of this promulgation.

**Link to Notice of Proposed Regulation:** <http://www.scstatehouse.gov/regs/4810.docx>

### **History and Status:**

Notice of Drafting published:	November 24, 2017
Drafting comment period closed:	December 27, 2017
Board approval to publish Notice of Proposed Regulation:	February 8, 2018
Notice of Proposed Regulation published:	February 23, 2018
Proposed Regulation comment period closes:	March 26, 2018
Public Hearing:	March 27, 2018 (scheduled)

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### **EMERGENCY MEDICAL SERVICES AND TRAUMA – Proposed New Regulation**

#### **R.61-118, South Carolina Stroke Care System**

State Register Document 4760

##### **Summary:**

The Department of Health and Environmental Control (“Department”) proposes a new regulation to address the requirements of the Stroke System of Care Act of 2011, S.C. Code Sections 44-61-610 et seq. (Supp. 2016). The proposed regulation establishes a process of application and recognition of acute care hospitals wishing to be recognized as stroke centers within South Carolina. The proposed regulation establishes a statewide stroke registry for the collection and analysis of stroke care by acute care hospitals within the State. Additionally, the proposed regulation adopts a nationally recognized, standardized stroke-triage assessment tool, posted on the Department’s website and distributed to all Emergency Medical Services (“EMS”) agencies licensed by the Department. Legislative review is required.

##### **Link to Notice of Final Regulation withdrawn and resubmitted for legislative review:**

<http://www.scstatehouse.gov/regs/4760.docx>

##### **History and Status:**

Notice of Drafting published:	April 28, 2017
Drafting comment period closed:	May 29, 2017
Board approval to publish Notice of Proposed Regulation:	September 7, 2017
Notice of Proposed Regulation published:	September 22, 2017
Proposed Regulation comment period closed:	October 23, 2017
Public Hearing:	December 7, 2017
General Assembly review period of Notice of Final Regulation begins:	January 2018
Withdrawn and resubmitted to the General Assembly to incorporate changes requested by the Senate Medical Affairs committee:	February 16, 2018

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## **HEALTH FACILITIES LICENSING – Proposed Amendments and Proposed New Regulation**

### **R.61-16, Minimum Standards for Licensing Hospitals and Institutional General Infirmaries**

State Register Document 4740

#### **Summary:**

The Department of Health and Environmental Control is amending Regulation 61-16. These amendments are necessary to incorporate recent changes in state law as well as changes to current practices and standards. The amendment incorporates provisions allowing dietitians to prescribe diets and other dietary services; incorporate requirements of S.C. Code Sections 44-41-410 through -480 relating to the provision of abortion services; incorporate existing inspection and construction fees; and incorporate new safe haven requirements.

#### **Link to Notice of Final Regulation submitted for legislative review:**

<http://www.scstatehouse.gov/regs/4740.docx>

#### **History and Status:**

Notice of Drafting published:	September 23, 2016
Drafting comment period closed:	October 24, 2016
Board approval to publish Notice of Proposed Regulation:	December 8, 2016
Notice of Proposed Regulation published:	December 23, 2016
Proposed regulation comment period closed:	January 23, 2017
Public Hearings:	June 8, 2017 April 13, 2017 (cancelled) February 9, 2017 (cancelled)
General Assembly review period of Notice of Final Regulation begins:	January 2018

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## R.61-78, Standards for Licensing Hospices

State Register Document 4800

### Summary:

On May 19, 2017, Governor Henry McMaster signed into law Act No. 61 amending the Hospice Licensure Act. The Department proposes amending R.61-78 to incorporate the provisions of Act No. 61 into its oversight of hospices. The Department may also include stylistic changes, which may include corrections for clarity and readability, grammar, punctuation, definitions, references, codification, and overall improvement of the text of the regulation. Legislative review is required.

### Link to Notice of Final Regulation submitted for legislative review:

<http://www.scstatehouse.gov/regs/4800.docx>

### History and Status:

Notice of Drafting published:	June 23, 2017
Drafting comment period closed:	July 24, 2017
Board approval to publish Notice of Proposed Regulation:	November 9, 2017
Notice of Proposed Regulation published:	November 24, 2017
Proposed regulation comment period closed:	December 27, 2017
Public Hearing:	February 8, 2018
General Assembly review period of Notice of Final Regulation begins:	February 2018

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## R.61-125, Proposed New Regulation for Crisis Stabilization Unit Facilities

State Register Document 4809

### Summary:

The Department of Health and Environmental Control ("Department") proposes a new regulation to establish licensure and regulatory requirements for Crisis Stabilization Unit ("CSU") Facilities. These facilities provide a short-term residential program offering psychiatric stabilization services and brief, intensive crisis services to individuals eighteen (18) years of age or older, twenty-four (24) hours a day, seven (7) days a week. Legislative review is required.

**Link to Notice of Proposed Regulation:** <http://www.scstatehouse.gov/regs/4809.docx>

**History and Status:**

Notice of Drafting published:	May 26, 2017
Drafting comment period closed:	June 26, 2017
Board approval to publish Notice of Proposed Regulation:	January 4, 2018
Notice of Proposed Regulation published:	January 26, 2018
Proposed regulation comment period closed:	February 26, 2018
Public Hearing:	March 27, 2018 (rescheduled) March 8, 2018 (cancelled)

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## **RADIOLOGICAL HEALTH – Amendment**

### **R.61-63, Radioactive Materials (Title A)**

State Register Document 4791

#### **Summary:**

The federal Atomic Energy Act of 1954 enables the United States Nuclear Regulatory Commission (“Commission”) to enter into agreements with state governors allowing for state regulation of byproduct, source, and special nuclear materials. 42 U.S.C. Section 2121. The Commission enters into such agreements if it finds the state regulatory program complies with applicable federal regulations. *Id.* To renew South Carolina’s ongoing agreement with the Commission, the Department of Health and Environmental Control (“DHEC”) amends Regulation 61-63 for compliance with the Commission’s federal regulatory updates. The amendments add clarification or corrections to Parts II, V, VII, and XII of the regulation. Additionally, for Part II, the amendments enable specific licensees to install and service generally licensed devices. For Part XII, Physical Protection of Category 1 and Category 2 Quantities of Radioactive Material, the amendments enable individuals receiving security-related information to protect it from public disclosure. These amendments comply with federal regulations 10 CFR Parts 19, 20, 30, 31, 32, 34, 37, 40, 61 and 71.

In accordance with S.C. Code Section 1-23-120(H), the amendments did not require legislative review as DHEC promulgates the amendments to comply with federal law indicated above.

#### **Link to Notice of Final Regulation exempt from legislative review:**

<http://www.scstatehouse.gov/regs/4791.docx>

#### **History and Status:**

Notice of Drafting published:	April 28, 2017
Drafting comment period closed:	May 29, 2017
Board approval to publish Notice of Proposed Regulation:	October 12, 2017
Notice of Proposed Regulation published:	October 27, 2017
Proposed Regulation comment period closed:	November 27, 2017
Public Hearings:	February 8, 2018 December 7, 2017 (cancelled)
Notice of Final Regulation published; Amendment took legal effect:	February 23, 2018

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